

60,427-257
2000P07668US01REMARKS

Applicant wishes to thank the Examiner for the detailed remarks. Claims 1, 4-18, and 20-26 are pending and stand rejected.

The Examiner rejected claims 1 and 4-9 under 35 U.S.C. §102(b) as being anticipated by *Shibata, et al.*. The Examiner contends that *Shibata, et al.* discloses the method of noise attenuation of Applicant's claims. Applicant respectfully disagrees. Applicant's claims recite generating a test sound wave to obtain actual environmental data. The test wave allows recalibration of Applicant's control unit during disablement of noise attenuation for more effective noise attenuation. Additionally, Applicant's claims recite both a test sound wave and a noise canceling signal, thereby distinguishing between a noise canceling function and a recalibration function. In contrast, *Shibata, et al.* merely discloses generating a canceling sound from the speaker (9) during noise attenuation, which is not a test sound wave. The canceling sound functions to attenuate engine noise and would not be effective as a test sound wave for accurate recalibration with the engine noise interference during noise attenuation. Accordingly, claims 1 and 4-9 are properly allowable.

Regarding claim 9, the Examiner contends that it is inherent that ceasing the generation of the noise canceling signals occurs prior to the next assessment of the environmental assumption of the control unit. Applicant respectfully disagrees. In Applicant's invention, the noise attenuation feature is disabled prior to the assessment of the environmental assumption of the control unit to allow accurate recalibration of the control unit using a test sound wave and to avoid burdening the control unit. This is contrary to the disclosure of *Shibata, et al.*, which discloses only canceling sound. If the canceling sound is

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ceased as Examiner contends, it cannot then be used to assess the environmental assumption, which requires a test sound wave to generate actual environmental data. Therefore, ceasing the generation of the noise canceling signal is not inherent in *Shibata, et al.* Accordingly, claim 9 is properly allowable.

Examiner rejected claims 1, 4-9, 10-16, 22, and 25 under 35 U.S.C. §102(b) as being anticipated by *Shibata, et al.* Applicant's claims recite assessing an environmental assumption by comparing the environmental assumption with actual environmental data and altering a noise canceling signal based upon the assessment. *Shibata, et al.* discloses utilizing a speaker/microphone transmission characteristic C_{MN} for compensating deviations, but does not disclose comparing the speaker/microphone transmission characteristic C_{MN} with actual environmental data or changing the noise canceling signal based upon the assessment. For this reason, claims 1, 4-9, 10-16, 22, and 25 are properly allowable.

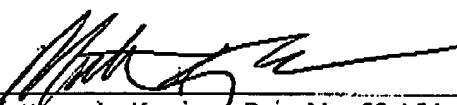
The Examiner rejected claim 26 under 35 U.S.C. §103(a) as being unpatentable over *Shibata, et al.* in view of *Yoshida, et al.* The Examiner admits that *Shibata, et al.* does not disclose ceasing the generation of the noise canceling signal for a predetermined time if a present level of errors in noise canceling is exceeded. The Examiner contends that *Yoshida, et al.* discloses minimizing power of an error signal in an adaptive noise canceller by monitoring the error signal, and when the power of the error signal exceeds a threshold the updating of the filter coefficients immediately stops. (Column 14, lines 33-52). Applicant's claim 26 recites, ceasing the generation of the noise canceling signal. As the Examiner stated, *Yoshida, et al.* discloses minimizing the power of an error signal, not ceasing the generating of the noise canceling signal as recited in Applicant's

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claim. In *Yoshida, et al.*, when the power of the error signal exceeds the threshold, the updating of the filter coefficient immediately stops, not the generating of a noise canceling signal. Therefore, the proposed combination fails to disclose ceasing the generation of the noise canceling signal as recited in Applicant's claim. Accordingly, claim 26 is properly allowable.

Respectfully submitted,

CARLSON, GASKEY & OLDS

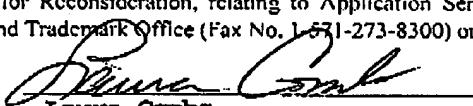
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CERTIFICATE OF FACSIMILE

I hereby certify that this Request for Reconsideration, relating to Application Serial No. 09/827,794, is being facsimile transmitted to the Patent and Trademark Office (Fax No. 1-571-273-8300) on September 20, 2005..


Laura Combs

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